

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:02CV165-1-MU

ROGER BYRD,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
THE UNITED STATES MARSHAL'S)	
SERVICE, <u>et al.</u> ,)	
)	
Defendants.)	
_____)	

THIS MATTER comes before the Court upon Defendant United States of America's Motion for Summary Judgment, filed September 25, 2002.

On April 22, 2002, Plaintiff filed a Complaint against the United States Marshal's Service, Walter B. Edmisten,¹ the Federal Bureau of Prisons, Willie Scott, the Charlotte Mecklenburg County Jail, and Jim Pendergraph. On September 24, 2002, Defendant United States of America filed a Motion to Dismiss or, in the Alternative, for Summary Judgment arguing that Plaintiff's claims against all of the federal defendants should be dismissed. On October 31, 2002, Plaintiff moved for an extension of time to respond to Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment. This Court granted Plaintiff an extension of time until December 9, 2002, in which to respond. Over four years have passed and Plaintiff has failed to abide by this Court's clear

¹ On November 11, 2005, this Court granted a Motion to Substitute the United States of America as the Proper Defendant in Place of Defendants Walter Edmisten and Willie Scott.

deadline. That is, to date no response to the Motion for Summary Judgment has been filed.

The Court has carefully reviewed the Defendant United States of America's Motion for Summary Judgment and for the reasons set forth therein finds that all of the federal defendants are entitled to a dismissal.

IT IS THEREFORE ORDERED THAT:

1. Defendant United States of America's Motion for Summary Judgment is GRANTED; and
2. Plaintiff's Complaint is DISMISSED.

Signed: May 16, 2006

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

